

CABINET

ADMINISTRATION & COLLECTION POLICY - BUSINESS RATES

Individual Cabinet Member Decision (Councillor Anne Whitehead)

Report of Head of Shared Service (Revenues & Benefits)

PURPOSE OF REPORT

Whilst there is a statutory duty to collect business rates, there is no statutory obligation on ratepayers to provide information related to occupation. It is therefore considered reasonable to seek documentary evidence relating to the existence of an occupier and the right for them to occupy at the start of the process, in order to ensure we charge the right ratepayer.

Following Internal Audit recommendations, this report seeks approval of a new Administration and Collection Policy for business rates. It will provide consistency in the way debtors are dealt with, particularly in relation to changes in occupation and rate avoidance.

Key Decision	<input type="checkbox"/>	Non-Key Decision	<input checked="" type="checkbox"/>	Referral from Cabinet Member	<input type="checkbox"/>
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Date of notice of forthcoming key decision	Not applicable
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This report is public

1 Recommendations

- 1.1 That the Administration and Collection Policy as set out in *Appendix A* be approved with immediate effect.

2. Introduction

- 2.1 The administration and collection of business rates, managed by the Revenues & Benefits Shared Service is becoming an increasingly important revenue stream for the Council. The team are responsible for collecting £50m annually from 5,100 business rate payers in the Lancaster area.
- 2.2 The Administration and Collection Policy aims to provide consistency in the way business ratepayers are dealt with in this regard, so as to ensure openness and transparency in the administrative process of charging business rates.

- 2.3 It provides guidance for staff with a responsibility for administering business rates, and provides a solid foundation to refer to when mitigating complaints in relation to liability.
- 2.4 At the same time, the policy will prove to be a source of information for Councillors, local advice agencies, landlords, rating advisors and all those responsible for the payment of business rates.
- 2.5 The policy has been developed to provide assurance that the Council has robust procedures in place, in calling for additional evidence to be provided when establishing rateable occupation.
- 2.6 The policy has been developed in line with Internal Audit recommendations and provides an increased level of scrutiny and challenge for those that attempt to defraud the system.

3. Details of Consultation

- 3.1 No formal consultation with the public has taken place on this issue. The policy provides a solid framework within which officers can administer business rates under the relevant Local Government Acts.

4. Options and Options Analysis (including risk assessment)

- 4.1 The maintenance of good collection rates has been identified as a key risk in the Shared Service Business Plan. Rate avoidance and other tactics to avoid payment affect this income stream. There are two options available for consideration:

Option 1 – To not adopt an Administration & Collection Policy

Internal Audit has recommended that the Council should have an approved policy for the administration and collection of business rates.

The new procedures allow staff to rely on an approved policy when defending their decisions, which should reduce the number of rate avoidance cases and complaints in the longer term.

Option 2 – Agree to the proposal as recommended

The policy provides guidance on administration practices in the collection of business rates, thus providing consistency for all ratepayers and a deterrent for those intent on defrauding the Council.

5. Officer Preferred Option (and comments)

- 5.1 It is recommended that Option 2 be applied. The policy provides consistency across the authority in administering business rates and reflects Internal Audit recommendations.

RELATIONSHIP TO POLICY FRAMEWORK

The report is in line with the Council Plan ambition to be a smart and forward thinking Council, focussing on the priority of future financial resilience and financial sustainability.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The proposals will apply equally across the authority, to all sections of the business community. The policy provides guidance on fair administration and collection practices in pursuance of business rate income, ensuring that the correct ratepayer is identified at billing stage, the start of the process.

It provides a framework for both staff and customers, to improve accuracy and reduce the opportunities for rate avoidance.

FINANCIAL IMPLICATIONS

It is not anticipated that this policy will create any new financial implications. However, it may improve collection rates, given the determination to reduce rate avoidance and to bill the right ratepayer at the right time from the start of their occupation.

SECTION 151 OFFICER'S COMMENTS

The S151 Officer has been consulted and comments are incorporated in the report.

LEGAL IMPLICATIONS

The adoption of this policy will provide a framework within which the Council will operate when administering and collecting future business rates, in accordance with relevant legislation.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comment to add.

BACKGROUND PAPERS

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**REVENUES & BENEFITS
(SHARED SERVICE)**

**PRESTON CITY COUNCIL
&
LANCASTER CITY COUNCIL**

BUSINESS RATES

**ADMINISTRATION AND
COLLECTION POLICY**

POLICY

Administration and collection of Business Rates

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1. Introduction

Non - domestic rates (also known as business rates) is an increasingly important revenue stream for local authorities, and they are duty bound to ensure that the public purse is properly protected.

This policy has been written in response to each Council's need to ensure that the administration and collection of business rates by Revenue Services, whose responsibility it is to administer and collect non domestic rates for each authority, is carried out in a fair and consistent manner.

It has been written in conjunction with legal advisors and internal auditors.

The Policy aims to:-

- Provide consistency in the way that taxpayers are dealt with.
- Ensure openness and transparency.
- Be a guide to all staff with responsibility for administering non domestic rates.
- Be a source of information for councillors, local advice agencies, Landlords, rating advisors and all those responsible for the payment of business rates.

The guidelines are not intended to slow down procedures or make them less effective.

All staff should be aware of the policy and new staff should be acquainted with it as part of their training.

2. Customer Care

As part of its commitment to excellent customer service, Revenue Services will:

- Ensure that accounts are administered in an efficient and effective way.
- Consider the financial circumstances of the customer when recovering debts.
- Encourage constructive comments from customers about how we can improve our services.
- Make services physically accessible to people with disabilities.
- Ensure that services are delivered in line with each Council's equal opportunities policies

3. Help & Advice

Information regarding reliefs and exemptions for business rates will be available on each authority's website and a link to the information provided with all bills. Potential qualifiers for small business rate relief will be issued with an application form with their opening bill as standard.

The service will also:

- Ensure customers are aware of where help and advice is available.
- Invite and encourage customers to make contact with the Council in person, by email or by telephone, as soon as they experience difficulties paying their accounts.
- Ensure that all written communications use “Plain language”
- Assist people with language and sensory communication difficulty, by offering a translation service where appropriate.
- Invite and encourage customers to utilise digital communication channels where appropriate.
- Ensure that advice and information given to customers by members of staff is consistent and that customers are treated fairly and equally.

4. Liability for Business Rates

The legislation governing the administration and collection of business rates is:-

Local Government Finance Act 1988, (LGFA 1988) and:-
The Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 SI 1989/1058; (as amended).

Section 65(2) LGFA 1988, deals with issues of liability in respect of property owners and property occupiers. Specifically, it addresses whether a billing authority should bill on an occupied or unoccupied basis and deals with the identification of liable parties.

In determining liability under section 65 of the LGFA 1988, a billing authority is to take into account the rules which would have applied for the purpose of The General Rate Act 1967 (GRA 1967) and any case law on the issue.

The term *hereditament* is used within this policy document as this is quoted throughout the legislation. A hereditament means property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the rating list. (GRA 1967)

The case of ***John Laing & Son Ltd v Kingswood Area Assessment Committee (1949)***, established that the essential features of rateable occupation are:-

- a) There must be actual occupation
- b) The occupation must be exclusive to the occupier;
- c) The occupation must be of some benefit to the occupier; and
- d) The occupation must not be for too transient a period.

Actual occupation concerns the physical use of the hereditament no matter how slight that use may be. The mere intention to occupy or the ownership of a legal title to the land is not sufficient to satisfy actual occupation. Actual occupation is a question of fact. Whether actual occupation is established may vary depending on the type of hereditament being used.

Exclusive occupation is where the rateable occupier has the right to exclude others from using the hereditament in the same way but it does not mean that another person may not have a distinct, separate and independent use of the premises.

Beneficial occupation whether the occupation is of value to the occupier, and benefit does not have to be purely of a financial nature.

Transience of occupation does not relate to short occupations of established hereditaments which would generate a charge on a daily basis, but refers essentially, to the time for which a hereditament exists.

Whether on the balance of probabilities, the four elements of rateable occupation are satisfied is a matter for the billing authority to determine in the first instance. Each case is assessed on its own facts. As a result of this, Revenue Services may need to make reasonable enquiries (where information is lacking) of relevant parties in order to determine rateable occupation.

Revenue services may request documentary evidence in various formats to support any claims of rateable occupation.

Property inspections may also be carried out in some cases, which may require access to premises and the taking of photographic evidence.

Where the billing authority is not satisfied that rateable occupation has been proven then legal opinion may be sought on a case by case basis. The legal opinion, if obtained, will advise the authority on what position it may take in respect of business rates liability and whether Court action should be taken in the event of non-payment.

Where any information requested by the Council is not provided or inspections have been refused, then should the matter be brought before the Courts this refusal to assist the Council with their enquiries will be brought to the Court's attention.

5. Notifying the Council of a Change of Occupation

Changes of Occupation can be notified to the Council by downloading a "Change of Occupation" form from the website ([link required](#)) by emailing lcndr@preston.gov.uk or by ringing the Business Rate Section on 01524 582920.

Telephone lines will be busy at peak periods therefore customers are advised to utilise digital channels in the first instance.

In the event you are a Landlord/3rd Party notifying us of a new tenant we will normally require a copy of the tenancy agreement/lease, as a minimum, before any changes to an account will be considered. More information may be needed following the receipt of tenancy agreements/licences/leases.

If it is a Limited company notifying us of a change of address we will normally require the notification to be on company letter headed paper with the name and number of the company clearly displayed.

Each Council has access to commercial insight data to assist in the administration and collection process.

6. Payment of Rates

Once a bill has been issued, if payment is not made in accordance with the bill reminders/final notices will be issued in accordance with *Regulation 9 of Non Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989*.

It is in the best interests of both the Council and the ratepayer to come to mutually agreeable payment arrangements, at any stage of the process, where possible. However, in the event of continued non- payment/non- contact a summons may well be issued.

The process following the issue of a summons is detailed in the Council's recovery Policy ([link required](#)).

7. Payment Methods

The Council's preferred method of payment for business rates is by ten monthly instalments by direct debit.

Ratepayers do have the right to request payment by twelve monthly instalments, but twelve instalments can only run from April – March in the financial year the debt is due. Payment by direct debit is recognised as being the most cost effective means of collection for both the Council and the customer. Every effort will be made to guide customers to pay by this method.

All other available payment methods are detailed on bills as standard.

8. Reliefs and Exemptions

The Council has a duty to protect the public purse not only when determining rateable occupation but with regard to the award of any reliefs or exemptions applicable under non domestic rating legislation.

In all cases where a ratepayer considers they are entitled to small business rate relief they will be required to complete a form. It may be that we require further information such as trading accounts for example, and if requested an application will not be considered without this supporting information.

Applications for mandatory/discretionary or hardship relief will also require the completion of a relevant form and the provision of supporting information.

Details of all reliefs and exemptions are on each council's website, and relevant application forms are available to be downloaded.

Where supporting evidence is requested, applications will not be processed unless and until it is provided, as awards of reliefs and exemptions are subject to audit checks.

9. Rate Mitigation

Each council is aware that in certain cases efforts are made to avoid the payment of business rates. We recognise that whilst these efforts may not be illegal, each council has a duty to protect the public purse and in doing so challenge and be seen to challenge what may be perceived as improper attempts to avoid the payment of business rates.

Where Revenue Services has concerns that some form of rates avoidance is being operated or attempted, it reserves the right to exercise increased scrutiny of representations and documentation put forward.

The provision of a signed lease/licence may not (in itself) be sufficient to establish a party's liability or non-liability for business rates. This often results in further information and enquiries being made.

Each case will be assessed on its own facts. Enquiries will focus on whether or not rateable occupation has been established and may include requests for:-

- Inspections within 7 days of occupation or vacation.
- Leases/licences
- Evidence of rent passing
- Evidence of occupation or vacation (including photographic evidence)
- Evidence showing how occupation is beneficial
- Meta-data supporting any evidence relied upon.

N.B. The above list is not exhaustive.

Upon consideration of all the relevant evidence available, Revenue Services will determine who it considers to be properly liable for business rates in respect of the hereditament concerned, and bills will be raised or amended accordingly. Ultimately, in the event of any dispute, it will be a matter for the court to determine who the liable party is.

10. Prevention and Detection of Fraud

Where there is any suspicion of fraudulent activity, or a deliberate attempt to mislead the Council, then Revenue Services reserves the right to pass these cases to the Corporate Fraud Team for further investigation.

Each Council will also participate in data matching exercises to assist in the prevention and detection of fraud, where appropriate, and in line with the requirements of the General Data Protection Regulations 2018.